IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 22786 of 2004

Between:

Syed Riyazuddin, S/o Syed Sharfuddin
Mechanic (E-251900) APSRTC, Kalwakurthy Bus Depot ,Mahabubnagar District .

..... PETITIONER

AND

1 The Regional Manager, APSRTC, Mahabubnagar Region, at

Mahabubnagar.
2 The Depot Manager, APSRTC, Kalwakurthy Bus Depot,

Mahaubnagar District.
3 The Depot Manager, APSRTC, Wanaparthy Bus Depot,

Mahabubnagar District.

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or order or direction more particularly one in the nature of Writ of Mandamus declaring that the action of the respondents in reducing the petitioners pay by two incremental stages with cumulative effect on his reinstatement as bad, arbitrary, illegal unjust unreasonable by modifying the proc,. No. PA/19(14/99) RM(MB) dated 28-5-2000 of R1 herein and consequently direct the respondents to release the reduced two increments of the petitioner by refixing the pay of the petitioner

Counsel for the Petitioner: MR.P.VENKATESWAR RAO

Counsel for the Respondents: MR.P.VINAYAKA SWAMY, Standing Counsel for the Respondents.

The Court at the admission stage made the following :

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ORDER:

The reduction of the petitioner's pay by two incremental stages with cumulative effect on his reinstatement in pursuance of the Proceedings dated 28-05-2000 issued by the 1st respondent is under challenge.

2. For not attending duties from 02-01-1999 to
18-01-1999 without intimation or prior sanction of leave of the respondents, a charge sheet was issued to the writ petitioner. Thereafter, an enquiry was conducted. After enquiry, the disciplinary authority accepted the findings of the Enquiry Officer and ordered for removal of the petitioner. The same was confirmed in the appeal. Thereafter, the writ petitioner filed a review petition before the Regional Manager, who passed the impugned proceedings dated 28-05-2000 ordering reinstatement of the petitioner but imposing the punishment by reducing the pay by two incremental stages with cumulative effect. Challenging the same, the present writ petition is filed.

3. The learned counsel appearing for the petitioner contended that due to ill-health i.e., heart ailment, the petitioner could not get prior sanction of leave nor informed the respondents authority in advance as he was taking treatment in the Hospital and therefore without any notice, the enquiry has been conducted and hence the enquiry is vitiated for the reason of non giving of opportunity.

4. On the other hand, the Standing Counsel appearing for the Respondents contended that in spite of giving several opportunities, the writ petitioner did not participate in the enquiry and therefore the Enquiry Officer has no option but to conduct the enquiry and submitted the report. The Regional Manager has taken a

lenient view by ordering reinstatement from that of the punishment imposed by the disciplinary authority for removal of the petitioner from service and there are absolutely no grounds to interfere with the punishment awarded by the Regional Manager.

5. The learned counsel is made available with the copies of the documents during the relevant period of time. The petitioner was admittedly referred to the Nizam's Institute of Medical Sciences by the Corporate Hospital on 02-01-1999 for the diagnosis of chest pain for evaluation. Thereafter, according to the petitioner, he has taken treatment in Nizam's Institute of Medical Sciences and therefore he could not be in a position to obtain prior sanction of leave in view of the ailment for which he was suffering. It is not a case of financial irregularities or loss to the Corporation. It is not the case of some illegalities committed by him. It is a case where the petitioner was absent for about 18 days without prior sanction of leave or information to the Corporation. Admittedly, the petitioner is working as a Mechanic. For the reasons beyond his control, he appears to have been not intimated to the Hospital authorities about his absence. As a matter of fact, he was referred by the Corporate Hospital authorities to the Nizam's Institute of Medical Sciences because of heart ailment. Thereafter, he seems to have been taken treatment in Nizam's Institute of Medical Sciences. So for the reasons beyond control of the petitioner, he could not be in a position to apply for leave. So for that ground, the petitioner cannot be penalized with regard to the monetary benefits. Hence, the imposition of reduction of two increments by two stages with cumulative effect will have a bearing in the service of the petitioner including pensionary benefits as the petitioner has not caused any financial irregularities to the Corporation. I consider it appropriate to modify the same to that of a minor punishment.

6. Accordingly, the writ petition is allowed by ordering deduction of two increments without cumulative effect.

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K.C.BHANU, J

Date: 09-12-2004.

Chvn/Stp.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Thursday, the ninth day of December, Two thousand and four.

ASSISTANT REGISTRAR.

// TRUE COPY//

SECTION OFFICER.

To

1 The Regional Manager, APSRTC, Mahabubnagar Region, at

Mahabubnagar.
2 The Depot Manager, APSRTC, Kalwakurthy Bus Depot,

Mahaubnagar District.
3 The Depot Manager, APSRTC, Wanaparthy Bus Depot,

Mahabubnagar District.

4 Two C.D.copies.